

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STEELWORKERS OF AMERICA,)	
AFL-CIO/CLC,)	
)	No. 04-12489WGY
Plaintiff,)	
)	Judge William G. Young
v.)	
)	
PLIANT CORPORATION,)	
)	
Defendant.)	

DEFENDANT’S RULE 12(b)(6) MOTION TO DISMISS THE COMPLAINT

Defendant Plaintiff Corporation, through its undersigned counsel, hereby moves to dismiss the Complaint of Plaintiff United States Steelworkers of America, AFL-CIO/CLC. As set forth in the accompanying Defendant’s Memorandum in Support of its Rule 12(b)(6) Motion to Dismiss the Complaint, Plaintiff’s suit to redress Defendant’s purported violation of the Worker Adjustment and Retaining Notification Act (the “WARN Act” or “WARN”), 29 U.S.C. § 2101 *et seq.* must be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure. While the Complaint alleges that Defendant failed to provide 60 days’ notice to Plaintiff before Defendant effectuated the shutdown of its Harrisville, Rhode Island facility (the “Plant”), it also sets forth facts which establish that no such notice was required because the shutdown did not result in an employment loss for 50 or more of Defendant’s employees within the meaning of the WARN Act. Thus, under the language of the WARN Act, Plaintiff’s Complaint fails to state a cognizable claim for relief.

WHEREFORE, for the reasons stated herein and in the accompanying Defendant’s Memorandum in Support of its 12(b)(6) Motion to Dismiss the Complaint, Defendant

respectfully requests that this Court dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted by this Court.

Respectfully Submitted,

/s/ Susan G. Fentin

Susan G. Fentin, Esq.

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Dated: February 15, 2005

Respectfully Submitted,

/s/ Richard L. Marcus

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Dated: February 15, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above document was served upon Plaintiff's counsel, Warren H. Pyle and Nicole Horberg Decter, Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C., 18 Tremont Street, Suite 500, Boston, MA 02108, by electronic filing and first-class, U.S. mail, postage prepaid on February 15, 2005.

/s/ Susan G. Fentin

Susan G. Fentin, Esq.